

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/013093

International filing date (day/month/year)
18.11.2004

Priority date (day/month/year)
22.11.2003

International Patent Classification (IPC) or both national classification and IPC
A47J31/40, A47J31/32

Applicant
NESTEC S.A.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/013093

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/013093

Box No. II Priority

1. ☐ The following document has not been furnished:
- ☐ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. ☒ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
4. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-30
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-30
Industrial applicability (IA)	Yes: Claims	1-30
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

- 1) Document **WO-A-02/080743** discloses an apparatus for preparing beverages from which the subject-matter of independent apparatus claim 1 differs in that the pressurizing means comprises at least one autonomous reserve of pressurized gas. In particular said document discloses (cf. page 2, line 30 - page 4, line 7; figures 1, 2) a module (44) for delivering a beverage, a liquid feed tank (14), a liquid feed chamber (16), of which the capacity is several times smaller than the capacity of the tank, pressurizing gas means (48), wherein said liquid feed chamber (16) is arranged to communicate with the tank (14) in a filling configuration (Fig. 1) and to communicate with the pressurizing means (48) in a module feeding configuration (Fig. 2), the gas entering into direct contact with the liquid present in the chamber (16) while the tank (14) remains isolated from the pressure with respect to the chamber, that is to say that the liquid present in the tank (14) is not subjected to the gas pressure exerted in the chamber (16). The pressurizing means according to said document comprises a electrical driven air pump.

However, the use of an autonomous reserve of pressurized gas as pressurizing means is already known in a similar apparatus disclosed in **WO-A-99/02081** (see "Druckluftflasche 7"). An autonomous reserve of pressurized gas improves the mobility and portability of the apparatus.

The subject-matter of independent claim 1 is therefore regarded as not involving an inventive step in view of the combination of **WO-A-02/080743** and **WO-A-99/02081**.

- 2) Document **WO-A-02/080743** discloses an apparatus for preparing beverages from which the subject-matter of independent apparatus claim **22** differs in that:
- a) the apparatus is configured to be mobile or portable for service by being free of an electrical connection to an electrical power supply outlet during service;
 - b) the pressurizing means is non-electrical and comprises at least one autonomous reserve of pressurized gas;
 - c) the tank comprises heat insulated walls to reduce the liquid heat loss.

However, feature a) is well known in portable beverage apparatus, see for example **US-A-6123010**. Features b) and c) are already known from **WO-A-99/02081**.

Consequently, the subject-matter of independent apparatus claim **22** is regarded as not involving an inventive step.

- 3) Document **WO-A-02/080743** discloses a method for delivering a pressurized liquid in a beverage distribution apparatus from which the subject-matter of independent method claim **23** differs in that:
- a) the gas is supplied from an autonomous gas reserve;
 - b) the liquid feed chamber is filled by the effect of the difference of pressure between the chamber and a feed tank

However, said features are already known in the state of the art, see **WO-A-99/02081** for feature a) and **US-A-6082247** (col. 2, lines 59-65) for feature b).

The subject-matter of independent method claim **23** is therefore regarded as not involving an inventive step.

- 4) Dependent claims **2-21, 24-30** do not seem to contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step. In particular:
- claims **2, 6, 7, 14-17, 21, 25**: see **WO-A-02/080743**;
 - claims **3-5, 10, 13, 24**: see **US-A-6082247**;
 - claims **4, 12**: see **WO-A-87/06812**;
 - claims **18-20, 30**: see **US-A-6123010**
- 5) The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 6) The attention of the applicant is drawn to the fact that some of the features of claims **22, 23, 26-29** have no basis in the priority document.